


October 24, 2022

BY ECF

The Honorable Lewis J. Liman
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

The proposed agenda submitted by the parties for oral argument on November 3, 2022 at 9:30 a.m. is approved. 10 minutes of the 25 minutes allotted per side for argument on End-Payor Plaintiffs' Second Consolidated Amended Complaint will be dedicated to Nonresident Defendants' Rule 12(b)(2) Motion to Dismiss End-Payor Plaintiffs' Non-New York Claims for Lack of Personal Jurisdiction, Dkt. No. 386.
10-25-22.



LEWIS J. LIMAN
United States District Judge

Re: *In re Bystolic Antitrust Litig.*, Case No. 1:20-cv-05735 (LJL)

Dear Judge Liman:

As directed by the Court's October 13, 2022 Order (ECF No. 431), the parties have conferred and jointly provide the following proposed agenda for the argument on November 3, 2022 at 9:30 a.m. regarding Defendants' pending motions to dismiss:

1. Defendants' Motion to Dismiss the Direct Purchaser and Retailer Plaintiffs' Third Consolidated Amended Complaint (ECF No. 393)

75 minutes per side (movant permitted to divide between opening and rebuttal)

2. Comfort Break

10 minutes

3. Defendants' Motions to Dismiss the End-Payor Plaintiffs' Second Consolidated Amended Complaint

25 minutes per side (movant permitted to divide between opening and rebuttal)

The parties plan to address the statute of limitations issue raised in Defendants' Motion to Dismiss the End-Payor Plaintiffs' Second Consolidated Amended Complaint (ECF No. 397), and plan to rest on their papers as to the remaining issues raised in Defendants' motion. However, if the Court has questions as to these issues, the parties will be prepared to address them.

The parties were unclear whether the reference to "motions" (plural) in the Court's October 13 Order means that the Court is also seeking argument on the Nonresident Defendants' Rule 12(b)(2) Motion to Dismiss End-Payor Plaintiffs' Non-New York Claims for Lack of Personal Jurisdiction (ECF No. 386). Defendants believe argument on the Rule 12(b)(2) motion would be helpful as the jurisdictional arguments have evolved since earlier briefing. End-Payor Plaintiffs will be prepared to address the jurisdictional motion if the Court wants to hear argument on it, but believe that the motion can be decided on the papers. To the extent the Court wants to hear argument on this motion, the parties will be prepared to allocate 10 minutes

per side, of the total 25 minutes allocated to the End-Payor-specific issues, to this motion. However, the parties would appreciate further guidance from the Court as to whether it wants to hear argument on the jurisdictional issues.

Consistent with the Court's October 13 Order, the parties do not intend to present argument with respect to Defendant Teva Pharmaceutical Industries Ltd.'s Motion to Dismiss the February 2022 Complaints Under Rule 12(b)(2) (ECF No. 388). The parties also welcome any guidance if the Court wishes to hear argument or has questions on specific issues.

Respectfully submitted,

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